

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
RODGER JEROME NELSON,  
  
Defendant.

Case No. CR05-234-RSL

**PROPOSED FINDINGS OF FACT  
AND DETERMINATION AS TO  
ALLEGED VIOLATIONS OF  
SUPERVISED RELEASE**

**INTRODUCTION**

I conducted a hearing on alleged violations of supervised release in this case on September 25, 2012. The defendant appeared pursuant to a warrant issued in this case. The United States was represented by Andrew Friedman, and defendant was represented by Peter Avenia. Also present was U.S. Probation Officer Lisa Combs. The proceedings were digitally recorded.

**SENTENCE AND PRIOR ACTION**

Defendant was sentenced on October 28, 2005, by the Honorable Robert S. Lasnik for Conspiracy to Commit Bank Fraud and Mail Fraud; Fraud and Related Activity in Connection with Access Devices, and Aggravated Identity Theft. He received 61 months detention and 5 years of supervised release.

On August 24, 2011, a report requesting modification of the terms of supervision was

1 submitted informing the Court that Mr. Nelson had relapsed to methamphetamine and marijuana  
2 use. He agreed to waive his right to a hearing and participate in a residential reentry center  
3 program. The Court concurred. Mr. Nelson entered an inpatient treatment program on  
4 September 29, 2011, subsequently entered the residential reentry center on November 3, 2011,  
5 and released on December 16, 2011.

6 On March 30, 2012, the Court found the defendant had violated the conditions of  
7 supervision by using methamphetamine, using marijuana, and failing to report for drug  
8 treatment. The term of supervision was revoked and the Court imposed 45 days custody to be  
9 followed by 24 months supervised release with the condition to participate in up to 90 days  
10 residential reentry center placement. The second term of supervision commenced on April 25,  
11 2012.

12 In a report issued August 7, 2012, U. S. Probation Officer Felix Calvillo, Jr. alleged that Mr.  
13 Nelson violated the following conditions of supervised release:

- 14 1. Using methamphetamine on or about May 14 and May 18, 2012, in violation of the  
15 general condition of supervision to refrain from unlawful use of controlled substance  
16 and standard condition #7.

17 Mr. Nelson admitted to the violation, waived any hearing as to whether it occurred and was  
18 set for disposition on September 25, 2012 before United States District Court Judge Robert S.  
19 Lasnik. The disposition hearing was continued to October 11, 2012, pending new violations.

20 **PRESENTLY ALLEGED VIOLATIONS**

21 In a supplemental petition dated September 18, 2012, U.S. Probation Officer Felix Calvillo,  
22 Jr. alleged that defendant additionally violated the following conditions of supervised release:

- 23 2. Failing to participate as instructed in the King County Recovery Center outpatient

1 treatment program since August 21, 2012, in violation of the special condition of  
2 supervision.

3 3. Failing to participate as instructed in the FareStart jobs training program by being  
4 "exited from training" on or about September 11, 2012, in violation of the special  
5 condition of supervision.

6 4. Failing to report as instructed for testing to determine if he has reverted to the use of  
7 drugs or alcohol on September 12, 2012, in violation of the special condition of  
8 supervision.

9 5. Failing to notify the probation officer ten days prior to a change in residence, in  
10 violation of standard condition #6.

11 **FINDINGS FOLLOWING EVIDENTIARY HEARING**

12 Defendant admitted to violations 2 - 5, waived any hearing as to whether they occurred, and  
13 was informed the matter would be set for a disposition hearing October 11, 2012, 1:30 p.m.  
14 before District Judge Robert S. Lasnik.

15 **RECOMMENDED FINDINGS AND CONCLUSIONS**

16 Based upon the foregoing, I recommend the court find that defendant has violated the  
17 conditions of his supervised release as alleged above, and conduct a disposition hearing.

18 DATED this 25th day of September, 2012.

19 

20 BRIAN A. TSUCHIDA  
21 United States Magistrate Judge  
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